



OFFICE OF THE OMBUDSMAN
ANNUAL REPORT

APRIL 1, 2003 ~ MARCH 31, 2004



NOVA SCOTIA



Mission

Foster confidence in the public service by promoting the principles of fairness, integrity, and good governance.

Our logo represents the arms of the public, government, and the Office of the Ombudsman raised for fairness, integrity, and good governance.

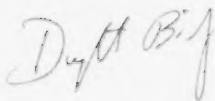
March 2005

The Honourable Murray Scott
Speaker of the House of Assembly
The Legislative Assembly
Province of Nova Scotia

Sir:

In accordance with Section 24(1) of the Ombudsman Act, being Chapter 327 of the revised Statutes of Nova Scotia 1989, as amended, I have the pleasure of presenting to you, and through you to the Members of the Legislative Assembly, the Office of the Ombudsman's Annual Report for April 1, 2003, to March 31, 2004.

Respectfully,

A handwritten signature in cursive script, appearing to read "Dwight Bishop".

Dwight Bishop
Ombudsman

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A Message from the Ombudsman

In January 2004 I was appointed Ombudsman, and since assuming the duties I have gained a deeper appreciation for the role this office performs. We strive to promote accountability and fairness in the way government services are delivered to the public. Fairness enhances trust in the legislative process and how that process is implemented. The independent nature of our office is fundamental. We are not advocates, and we do not represent complainants, government departments, or municipalities. Instead, we gather information surrounding the complaint, resolve matters where possible, and report and recommend change. We act as a bridge between the citizens of this province and the public servants who carry out legislative obligations.

This service is provided without charge to all Nova Scotians. Some complainants approach the Office of the Ombudsman knowing little about government processes, but hopeful that we provide some type of assistance. For those who are vulnerable, or who are marginalised by poverty, lack of education, or illness, dealing with a government agency or authority can be a daunting and stressful experience. It is our responsibility to assist, to inform, and to promote the attitude that employees are servants of the public and are accountable for the manner in which they perform.

I am proud to mention that, in 2005, we will be hosting the Canadian Council of Parliamentary Ombudsman annual meeting and the Canadian Council of Provincial Child and Youth Advocates annual meeting.

In closing, I wish to take this opportunity to extend my appreciation to Mayann Francis for her direction and stewardship of this office during her term as Ombudsman. It is my pleasure and honour to serve as your Ombudsman. I am pleased to outline the accomplishments of our office in 2003-2004.

Dwight Bishop
Ombudsman

History of the Ombudsman in Nova Scotia

Dr. Harry Smith
1971 - 1981



William Campbell
1982 - 1985



Dr. Andrew MacKay
1986 - 1988



Dr. Guy MacLean
1989 - 1994



Douglas Ruck, Q.C.
1995 - 2000



Mayann Francis
2000 - 2003



Dwight Bishop
2004 - PRESENT



The Ombudsman is an Officer of the House of Assembly. The mandate of the Office of the Ombudsman is to respond to individual and group complaints arising from the administration of provincial or municipal laws within Nova Scotia. We also have the capacity to investigate own motion complaints where there is evidence that an investigation is warranted or to address matters referred to this office by a Committee of the House Assembly.

Established in 1970, the Office of the Ombudsman was created under the Ombudsman Act. Reporting directly to the House of Assembly, the Ombudsman is independent, with broad jurisdiction to investigate the actions of government as they affect Nova Scotians. Complaints addressed to this office are held in confidence and are not subject to freedom of information requests.

The Year in Review

The 2003-2004 Business Plan of the Office of the Ombudsman set the following goals:

- To continue to provide an effective complaints resolution/investigation mechanism and to increase citizens' awareness of the role and impact of the Office of the Ombudsman.
- To continue to develop the role of the Children's Section to provide youth in care and custody of the provincial government with an independent complaints resolution mechanism.
- To review and evaluate our processes to ensure we are providing the best service possible to all Nova Scotians.

With the appointment of a full-time Ombudsman in January 2004, plans for converting casual and contract staff to permanent positions and restructuring were initiated. We also initiated reviews of our investigation processes, reporting mechanisms, and style of reports issued by this office.

The number of contacts addressed by the office continued to increase (from 1417 in 2002-2003 to 1642 in 2003-2004). The increase in referrals prompted us to develop a communication strategy to ensure the public is aware of the mandate of the Office of the Ombudsman. The continued reduction in investigations (from 47 to 27) reflects more concerns are being addressed in a timely and effective manner through administrative reviews, without having to proceed with an investigation.

This office continued to expand its outreach role for the Children's Section. Throughout 2003-2004 the Children's Section placed communication material in all police holding cells and admission areas in the province. Every municipal police department and the RCMP have agreed that youth detained in holding cells have the right to contact the Office of the Ombudsman. Youth are advised of this right upon admission.

In September 2003, the Children's Section participated in the Youth Partners Project: Youth Experience in Secure Young Offender Facilities, a project sponsored by the Canadian Council of Provincial Child and Youth Advocates. Twenty-five youth in detention facilities were interviewed in relation to this project. All reported their privacy is respected when contacting the Office of the Ombudsman.

In December 2003, a new 20-bed treatment facility (secure care) opened in Truro. The Wood Street Centre offers treatment for youth in the care of Community Services. Staff from the Office of the Ombudsman visit the centre every two weeks to ensure that youth entering the facility are aware of our services and to address any outstanding concerns.

Representatives of this office continued discussions with corrections officials in an attempt to provide a more effective complaints mechanism to the adult correctional facilities.

We made presentations to a number of government departments and agencies ensuring government officials are aware of the role and mandate of this office. Outreach to communities was ongoing. We also began the process of meeting deputy ministers, mayors, wardens, and chief administrative officers throughout the province. The intent of meeting with citizens and public servants is to provide education and information on the principles of administrative fairness and the role of the Office of the Ombudsman. Our goal is to have Nova Scotians familiar with, and confident in, our mandate, our services, and our professionalism.

Complaint Resolution Process

Citizens who contact the Office of the Ombudsman do so because they are affected by decisions or actions of government. Staff endeavour to ensure that complainants understand the capabilities and limitations of the office, as well as the process that each investigation generally follows. The structure allows all parties to represent their perspectives fairly and maximizes the resources of the office. No two complaints are exactly the same; however, there are a number of areas the office deals with on a regular basis. Periodically, the complaints are analysed to detect possible trends or a systemic problem; in such cases we address the concern with the respondent department or agency.

To ensure that all complaints addressed to the office are assessed in an effective manner and the Ombudsman's Act is applied consistently, we have developed the following procedure:

Phase 1: Intake

Each complaint is screened to determine if we have jurisdiction to investigate the matter. If it is non-jurisdictional (such as a complaint against an elected official or a federal agency) we refer the complainant to the appropriate authority. If the complaint is within our jurisdiction, an intake officer prepares a brief outline of the complaint and refers the matter to Phase 2.

Phase 2: Administrative Review

At the administrative review stage an Ombudsman Representative gathers facts about the issue, determines what avenues of appeal are available to the complainant, and listens to the perspective of both the complainant and respondent. The Ombudsman Representative can often assist by identifying and directing the complainant to the appropriate appeal or review process. The use of alternate dispute resolution is considered by this office. The use of less formal processes is consistent with the approach used by other Ombudsman offices and lends itself to a more efficient service delivery.

Our objective is to complete reviews within one to four weeks after the complaint has been received. If the matter cannot be resolved, it moves to Phase 3.

Nature of Complaints - Investigation Section

Phase 3: Investigation

The investigation phase generally involves an in-depth review of the matter. The focus of investigations is to review processes and procedures with a view to improving service delivery. Recommendations made by this office are usually accepted by government authorities.

The following is a representative sample illustrating the number and scope of concerns brought to the attention of the Investigation Section during a one-month period (February 2004):

- Removal from a youth facility
- Conduct of a public transit worker
- Child support and alimony issues (3)
- Inadequate communication - town official
- Insurance inquiries (3)
- University inquiry
- Federal department inquiries (5)
- Court issues (2)
- Private business complaint
- Birth certificate inquiry
- Freedom of Information and Protection of Privacy inquiry
- Compensation for injured workers
- Car damage related to pot hole
- Collection agency concerns (2)
- Worm digging inquiry
- Lost correspondence
- Benefits - appeal process inquiries (2)
- Estimates inquiry
- Non-responsive government employees
- Disagreement with patient care
- Incorrect parental assessment
- Benefit inquiries (6)
- Victim of crime inquiry
- Promise of employment did not materialize
- Student loan inquiry
- Offender residing in a facility in another province
- Overpayment - bank
- Medical benefits inquiry
- Licence concern - private business
- Provincial employee service complaints (3)
- Telephone number inquiries (2)

- Concerns with wheelchair repair
- Junk mail inquiry
- Misdirected mail
- Address inquiry
- Discrimination allegation
- Medical inquiries - offenders (3)
- RCMP complaints (3)
- Insufficient well water
- Chronic pain legislation
- Insufficient information provided by provincial agency
- Lack of notification regarding provincial law amendment
- House insurance inquiry - hurricane
- House insurance inquiry - oil spill
- Length of court proceedings
- Duplication of fee payment
- Psychiatric care inquiry
- Collection agency issues
- Landlord/tenant inquiries (4)
- Legal inquiries (3)
- Housing concerns
- Pension inquiries (2)
- Unfair/unjust dismissal inquiries (3)
- SIN application rejected
- Offender concern - federal
- Problems with automobile
- No payment for services provided
- Lack of advancement - work
- Complaint regarding a judge
- Poor notification - property taxes
- Patient in nursing home relocated
- Rehabilitation centre closures (2)
- Employee harassment allegation
- Provincial employee - breach of confidentiality allegation
- Provincial employee - communication concerns
- Property inquiry
- Credit concerns
- Segregation concerns - offender
- Disagrees with tribunal decision
- Inappropriate/inadequate investigations conducted by provincial agency (2)
- Insufficient recreation time - offender
- Lack of mobility - offender
- Unfair tender procedure
- Inadequate service - private company
- Sentencing complaint - offender
- Accounting irregularities - municipal agency
- Tele-marketing inquiry
- Small Options Home - payment
- Visitation denied - offender
- Regulations not applied - provincial agency
- Property not returned - court procedure
- Disagreement with zoning interpretation - municipality
- Unfair punishment - offender

Total inquiries/concerns - 116

Specific Cases - Investigation Section

Example 1: Driver's Licence

A citizen was convicted of a driving offence under the Criminal Code of Canada and a judge prohibited driving for a period of one year. This person also received notification from the Registry of Motor Vehicles (RMV) that their licence had been revoked for three years. The citizen wondered if the RMV had the authority to add to the penalty imposed by the judge.

Our review revealed that the RMV obtained a copy of the conviction and entered the three-year duration of the revocation of the driver's licence as this is the time frame set out in the provincial Motor Vehicle Act. The RMV had no discretion to alter the time frame of three years. To lessen any confusion this may cause to other citizens, we recommended that when notifying drivers of suspensions, they include the relevant section of the provincial statute they are required to enforce so the driver understands the basis of the Registry's three-year time frame.

Example 2: Water Bill

The complainant managed a rental property in which the water bill was in his name. The water bill was past due. The complainant had water accounts at two other properties, but claimed he had no interest in these as they were owned by his former spouse. Water service was disconnected to all accounts in the complainant's name with the stipulation the water would be restored once the balance was paid. The water utility would not allow the complainant's former spouse to reconnect the service to these properties in her name.

Our review revealed that it was not clear whether the complainant's former spouse was considered a customer for the purpose of the business properties. We facilitated an agreement whereby the former spouse agreed to put money in trust while the complainant paid the balance of the account and water was restored to her properties.

Example 3: Demolished Cottage

The complainant's cottage was demolished by the municipality because it was determined to be dangerous and unsightly. The complainant stated that the demolition occurred without proper notification and had prevented him from restoring the cottage to acceptable standards.

The municipality had offered to waive the cost of the demolition and to provide a building permit to build another cottage on the same site. The complainant felt that the municipality should provide the assessed value of the cottage as compensation.

The Municipal Government Act states "the notice may be served by being posted in a conspicuous place upon the property or may be personally served upon the owner." The municipality indicated that although it had been the practice to serve personal notice, by registered mail, and to post such notice on the property, only one was legally required. They also disagreed with the complainant's estimate of the value of the cottage.

Our review indicated that notice had been posted on the building, but that the complainant did not receive notification by registered mail. The 14-day notification of demolition had been sent by registered mail, but was returned to the municipality after the demolition had occurred. The municipality did not have a procedure in place to verify receipt of the notice. The complainant would not have any knowledge of the intended demolition unless the cottage had been visited within 14 days prior to the demolition.

The municipality agreed to continue with the practice of posting orders on a property as well as sending a registered letter to the property owner's permanent address. They also agreed to develop a process for verifying receipt of registered mail before proceeding with a demolition. The complainant and the municipality agreed to have an independent assessor determine the value of the cottage. The complainant received compensation based on this assessment.

Children's Section

Example 4: Complicated Forms

The complainant was having difficulty obtaining government assistance for home repairs. The home was in serious need of repairs. Among other things, snow was coming into his home through an opening at the bottom of his door. The complainant had completed the forms required for assistance three times and was being asked to complete them again.

A government official advised that the program had changed from when the complainant had first applied. This resulted in a difference in the amount the applicant was now qualified to receive. Also the application had not been approved because there were mistakes in the form.

The complainant did not understand what information the department required and was frustrated with having to again complete the forms.

Staff from our office suggested to the department that the complainant may require help in completing the forms. The department sent their staff to meet with the complainant to review and assist with completing the form. The paperwork was completed to the department's satisfaction and the repairs were conducted.

This section provides children and youth with an opportunity to have their voice heard, monitors conditions in child custody and child protection facilities, and makes recommendations to improve various child-serving systems.

The establishment of a specialized children's mandate at the Office of the Ombudsman is part of the increased recognition of the rights of children worldwide and the demand for government accountability where services affect children.

An essential characteristic of the Children's Section is collaboration with other bodies. Partnerships have been established with municipal, provincial, and federal government departments and agencies as well as several non-government organizations and universities throughout Canada. Relationships of trust and respect have developed, with authorities routinely accepting the recommendations.

The Children's Section toll-free line is monitored regularly on weekends and holidays. Calls are handled directly by Ombudsman Representatives, and most matters can be assessed and resolved quickly. The Children's Section also distributes posters and brochures designed specifically for children and youth. Material for the Children's Section is available in English, French, and Mi'kmaq. Last year, the Children's Section distributed 1300 brochures.

Nature of Complaints - Children's Section

The following illustrates the scope of concerns brought to the attention of the Children's Section in 2003-2004:

- Unfair level/sanctions (discipline)
- Healthcare
- Placement in a correctional facility
- Placement in a residential child-caring facility
- Transfer request
- Facility procedure/protocol
- Release plans
- Misplaced/lost personal property
- Legal inquiries
- Concerns regarding staff of a facility
- Concerns regarding municipal police/RCMP
- Concerns regarding Community Services
- Requests for cultural or religious materials/observations
- Privacy issues
- Access to education
- Use of restraints
- Use of isolation room
- Use of segregation
- Clarification of complaint procedure
- Allegation of abuse
- Birth certificate inquiries

Specific Cases - Children's Section

Example 1: DNA Testing

During a routine site visit by an Ombudsman Representative a youth in a correctional facility posed questions about the collection of DNA samples. Upon closer examination, it appeared the test may not have been administered properly as set out by the Criminal Code, i.e., the right to have a parent/appropriate adult present during testing or to formally waive that right.

A review by the Ombudsman Representative revealed that provincial policy, training programs, and material published by the National DNA Databank did not identify the different requirements for collecting DNA samples from youth as opposed to those from adults.

The department issued a memorandum to police and other related agencies to ensure they were aware of the unique requirements for DNA collection when youth are involved. The National DNA Databank has included the information for consideration in their upcoming review and training sessions.

Example 2: Dental Work Required

A youth contacted us stating that they required extensive dental work. The youth was residing in a child-caring facility and was in a voluntary care agreement with a government agency. Staff at the facility confirmed that the youth was suffering from toothaches and arranged for the youth to visit a dentist. The estimate for the required dental work was \$1000. The position of the government agency was that the youth's parents should absorb the costs. Staff and the youth believed this was unfair because the youth was in the care of the province and the parent was not able to pay this amount.

An Ombudsman Representative contacted the agency to inquire whether the decision could be reviewed. Subsequently an agreement was reached and dental expenses were covered by the agency.

Example 3: Transport of Young Person

The parent of a young person contacted this office with several concerns regarding the transportation of their child to a correctional facility. This matter was brought to the attention of the Director of Sheriff Services. Following their review, it was determined that the young person was placed in the same transport compartment as an adult offender for a short period of time, contrary to standard policy and procedures, and corrective action resulted. The Director also found that adequate supervision had been provided.

Example 4: Facilitating Communication

A young person was detained in a youth detention facility on immigration matters. He spoke little English; however, our Ombudsman Representative was able to communicate with him and explained the role of the Children's Section. The Ombudsman Representative assisted in having calls placed to his country's embassy and assisted in ensuring that he was provided legal counsel and a translator at his immigration hearing held in the facility.

Statistics - Investigation Section

Complaints and Inquiries Received Investigation Section: 2001 - 2004



NB: Complaints and Inquiries include all calls or letters involving municipal or provincial governments as well as those involving authorities outside the jurisdiction of the office.

Resolution Times and Results for Complaints and Inquiries Received: 2003 - 2004

Non-Jurisdictional (referral provided)

Declined-Discretionary

Discontinued

Properly Implemented

Resolved

Settled

Withdrawn

1-7 days

8 days - 4 weeks

4 weeks +

Non-jurisdictional:

The complaint involved a source other than a provincial or municipal government department or agency.

Jurisdictional:

Declined - Discretionary:

The office opts not to proceed with complaint as it lacks grounds and/or substance.

Discontinued:

The complainant does not formally withdraw the complaint, but no longer communicates with the office.

Properly Implemented:

An administrative review was completed and no mal-administration was found.

Resolved:

The office assists the parties in coming to a resolution.

Settled:

The complainant and respondent arrived at a mutually agreeable resolution.

Withdrawn:

The complainant has chosen to withdraw the complaint and/or not proceed with the administrative review or investigation.

Length of Administrative Reviews

2003 - 2004



Administrative reviews were conducted on 758 complaints.

Length of Investigations

2003 - 2004



80 Investigations were Initiated.

20 Investigations were Closed.

Statistics - Investigation Section

Complaints and Inquiries Received
Investigation Section: 2001 - 2004

Resolution Times and Results for Complaints
and Inquiries Received: 2003 - 2004

2001-2002:
1163

2002-2003:
1417

2003-2004:
1642

NB: Complaints and Inquiries include all calls or letters involving municipal or provincial governments as well as those involving authorities outside the jurisdiction of the office.

Non-Jurisdictional (referral provided)

Declined-Discretionary

Discontinued

Properly Implemented

Resolved

Settled

Withdrawn

1-7 days

8 days - 4 weeks

4 weeks +

Non-jurisdictional:

The complaint involved a source other than a provincial or municipal government department or agency.

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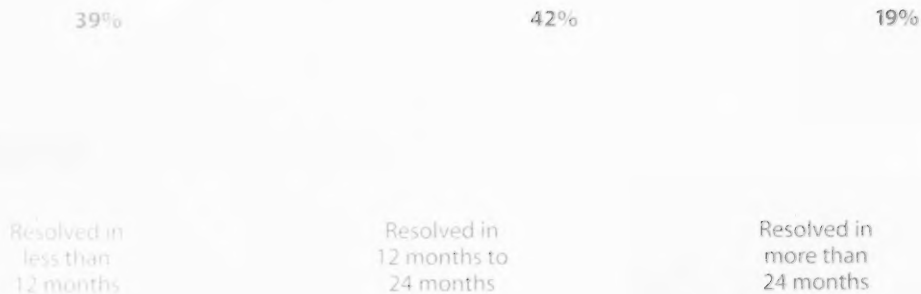
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Length of Investigations

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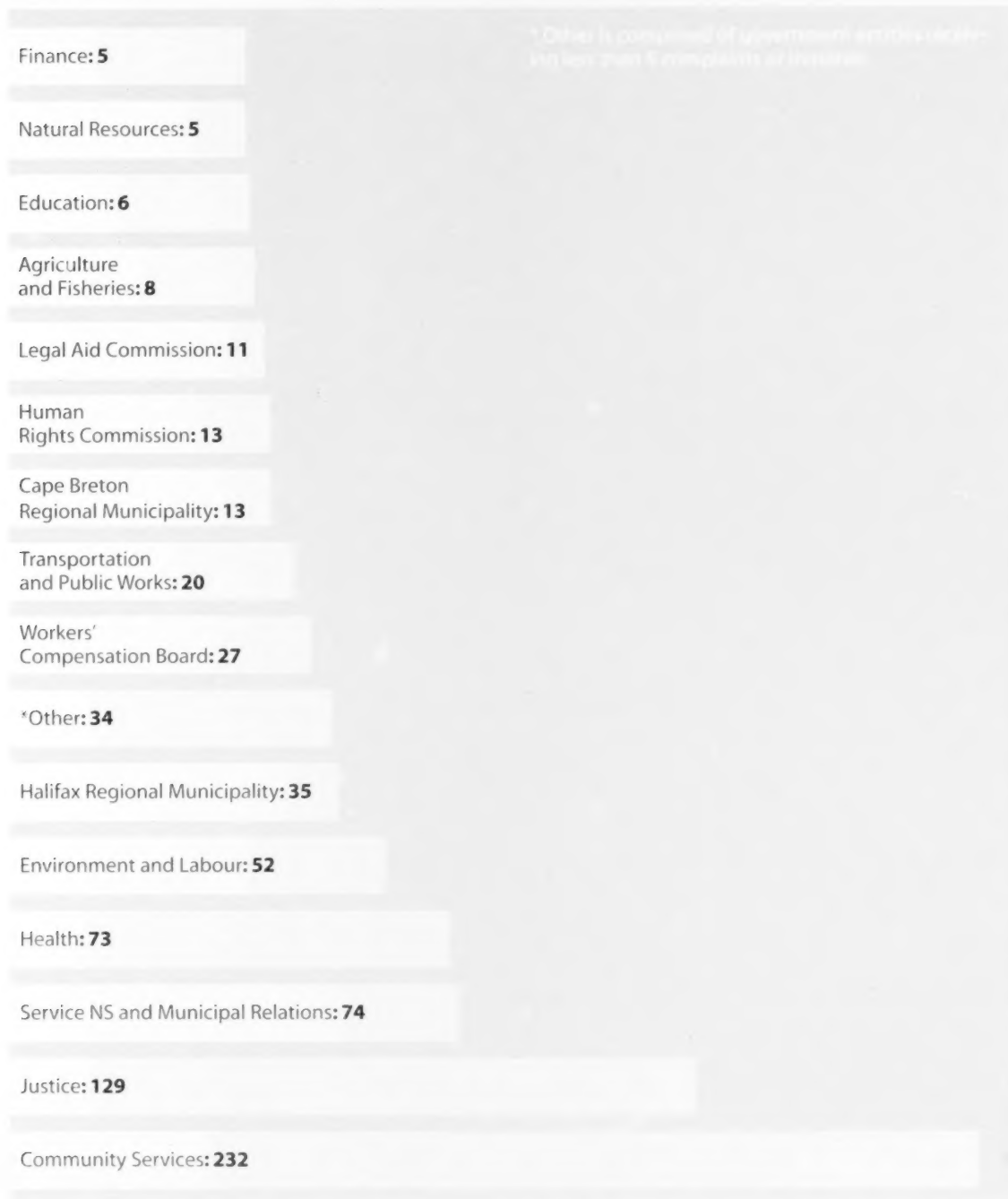


80 Investigations were Initiated.

80 Investigations were Closed.

Origin of Complaints and Inquiries (Respondents)

2003 - 2004



Complaints and Inquiries Involving Department of Community Services 2003 - 2004



** Other is comprised of complaints and inquiries not covered in the table categories.

Complaints and Inquiries Involving Department of Environment and Labour 2003 - 2004



Complaints and Inquiries Involving Service Nova Scotia and Municipal Relations 2003 - 2004



Complaints and Inquiries Involving Department of Justice

2003 - 2004



Statistics - Children's Section

2003 - 2004

Complaints and Inquiries: 259

Administrative Reviews: 243

Referrals: 16

Investigations: 2

Visits to Youth Correctional Facilities: 25

Visits to Secure Care Facility: 8

Regular Reports Issued to Department: 29

Youth Information Sessions: 79

(attended by 148 youth)

Resolution Times and Results for Jurisdictional Administrative Reviews

2003 - 2004



Statistics - Children's Section

2003 - 2004

Complaints and Inquiries: 259

Administrative Reviews: 243

Referrals: 16

Investigations: 2

Visits to Youth Correctional Facilities: 25

Visits to Secure Care Facility: 8

Regular Reports Issued to Departments: 29

Youth Information Sessions: 79

(attended by 148 youth)

Resolution Times and Results for Jurisdictional Administrative Reviews

2003 - 2004

79%

14%

7%

1 - 7 days

8 days - 1 month

1 month +

Looking Ahead

Our objective is to improve the administration of public services. We will continue to review and evaluate our processes against our goals to ensure quality service.

Significant plans and initiatives outlined in the 2004-2005 Business Plan include continuing to develop the role of the Children's Section in order to provide a proactive complaints resolution mechanism for youth in care and custody of the provincial government, and to oversee the child-serving systems of government. Priority will be placed on developing measures to increase awareness of the role of the Office of the Ombudsman.

In the year ahead, we will bring forward amendments to the Ombudsman Act to clarify the scope of our jurisdiction. Another important goal is to create stability and continuity of service by converting contract positions within the office to permanent positions. This process will include restructuring of the office, reclassification of the positions, and using Section 7 (1) of the Ombudsman Act whereby the Ombudsman, subject to the approval of the Governor in Council, appoints staff to the Office of the Ombudsman.

Goals for the future include expanding our outreach to seniors, to the municipalities, and to the Aboriginal, African-Nova Scotian, and new immigrant communities. We will review and monitor the complaint resolution process to ensure it is efficient and effective. We will continue to seek improvements in data tracking, including systemic reviews for consistency and quality assurance in the statistics we generate.

We will continue to increase our presence and our signage in all correctional facilities, and we will expand the Children's Section to cover all facilities where youth come into contact with government custody, care, or other services.

We are taking steps to address new responsibilities delegated to the Ombudsman through the proposed Regulations Respecting Civil Service Disclosure of Wrongdoing. We will also conclude long-standing investigations and will develop a process for ensuring that departments and municipal agencies are informed of requests for assistance.

We will increase the expertise and sensitivity of our staff in the administration of the Ombudsman Act, and we will support staff initiatives to fulfill our responsibilities and make a contribution locally and nationally. We look forward to a productive year.

Contact Us:

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